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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,144	02/28/2002	David Engel	87335.3481	5030

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EXAMINER
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SORKIN, DAVID L

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 01/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/084,144	Applicant(s) ENGEL, DAVID	
	Examiner David L. Sorkin	Art Unit 1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-4, 6-13, 16-27 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) 19-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-4, 6-13, 16-18 and 29-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

1. Applicant is advised that should claim 30 be found allowable, claim 32 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 112***

2. Claims 6-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. In claim 6, it is unclear what is meant by "said the diameter cover".
4. Claims 7 and 11 are indefinite because they depend from canceled claim 5.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 2, 3, 6-8, 10-13, 16-18 and 29-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Magnuson (US 3,055,237). Regarding claim 29, Magnuson ('237) discloses a drive assembly comprising a cover (16); a speed reducer disposed within

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the cover (see col. 3, lines 69,79; Fig. 1); a first support (12) that supports said cover; and a second support (13) that supports said cover. Regarding claim 2, said cover comprises a circular side wall with two opposite ends (see Fig. 1, col. 1, lines 67-68). Regarding claim 3, said cover is a hollow cylinder having a constant diameter (see Fig. 1). Regarding claim 6, said first support (12) includes a first flange having a diameter greater than a diameter of the cover (see Fig. 1). Regarding claims 7 and 8, said second support (13) includes a second flange having a diameter less than the diameter of the cover (see Fig. 1). Regarding claim 10, a first sealing element (20) is disposed between the shoulder and the cover (see Fig. 1). Regarding claims 11 and 12, a second sealing element (20) is disposed between the flange and said cover (see Fig. 1). Regarding claim 13, the sealing elements are O-rings (20). Regarding claims 30 and 32, said speed reducer is a concentric speed reducer (see Fig. 1). Regarding claim 31, Magnuson ('237) discloses a drive assembly comprising a cover (16); a speed reducer disposed within the cover (see col. 3, lines 69,79; Fig. 1); a first seal (20, the one adjacent 12) that supports said cover; and a second seal (20, the one adjacent 13) that supports said cover. Regarding claim 16, the sealing elements are O-rings (20). Regarding claim 17, said cover comprises a circular side wall with two opposite ends (see Fig. 1, col. 1, lines 67-68). Regarding claim 18, said cover is a hollow cylinder having a constant diameter (see Fig. 1). Regarding claim 33, Regarding claim 29, Magnuson ('237) discloses a drive assembly comprising means (16) for covering; means for reducing speed disposed within the covering means (see col. 3, lines 69,79; Fig. 1); first means (12) for supporting; and a second means (13) for supporting.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magnuson (US 3,055,237) alone, or the alternative in view of Kesig et al. (US 5,735,603). The assembly of Magnuson ('237) was discussed above. Magnuson ('237) fails to disclose stainless steel as required by claims 4 and 9 and also fails to disclose the six-inch dimension of claim 4. See *In re Leshin* (125 USPQ 416 (CCPA 1960) regarding the obviousness of making parts of well known materials and *In re Rose* 105 USPQ 237 (CCPA 1955) and *Garder v. TEC Systems, Inc.* 220 USPQ 777 (Fed. Cir. 1984) regarding the obviousness of selecting a size. Kesig ('603) teaches that making housing components of stainless steel provides the benefit of corrosion resistance (see col. 14, lines 35-40). It is considered that it would have been obvious to one of ordinary skill in the art to have made part of the assembly of Magnuson ('237) stainless steel to obtain the corrosion resistance advantage of stainless steel as taught by Kesig ('603) (see col. 14, lines 35-40).

***Response to Arguments***

9. Applicant's arguments have been considered but are moot in view of the new grounds of rejection.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



David Sorkin



**TONY G. SOOHOO**  
**PRIMARY EXAMINER**